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MCCARTER MACHINE INC
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MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Patent No. 6,443,817 :
Issued: 09/03/2002 :
Application No. 09/778,525 : . LETTER
Filed: 02/06/2001 :
Attorney Docket No. MCCARTER-1 : }

This is in response to the communication filed October 28, 2011, and the "MAINTENANCE FEE TRANSMITTAL FORM" filed October 5, 2011.

The patent issued on September 3, 2002. The grace period for paying the 7.5-year maintenance fee expired on September 4, 2010.

Pursuant to 37 CFR 1.378(a), the Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, **upon petition**, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee.

Any petition to accept an unintentionally delayed payment of a maintenance fee filed under 37 CFR 1.378(c) must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and **must include**:

- (1) the required maintenance fee set forth in § 1.20(e)-(g);
- (2) the surcharge set forth in § 1.20(i)(2); and
- (3) **a statement that the delay in payment of the maintenance fee was unintentional.**

Lastly, a petition under 37 CFR 1.378(c) must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

On October 5, 2011, patentee attempted to pay \$1,425.00 for the maintenance fee due at 7.5 years. On October 13, 2011, the Office mailed a Notice of Non-Acceptance of Patent Maintenance Fee indicating that the maintenance fee payment was not accepted and no charge was applied to the credit card because the patent had expired. On October 28, 2011, the Office received a communication signed by only one of the patentees, Douglas R. McCarter, seeking reinstatement of the patent. The communication included payment of the \$1,425.00 maintenance fee and the \$1,640.00 surcharge where late payment was unintentional. The Office acknowledges receipt of fees totaling \$3,065.00.

It appears that patentee wishes to reinstate the patent under the provisions of 37 CFR 1.378(c). However, patentee did not file an appropriate petition under 37 CFR 1.378(c) or include a statement that the delay in payment of the maintenance fee was unintentional. Moreover, the communication was signed by only one of the patentees, Douglas R. McCarter. The Office records reveal that an assignment was recorded in the USPTO. Therefore, if Mr. McCarter is acting on behalf of the assignee, he must submit a Statement under 37 CFR 3.73(b).

It is recommended that patentee utilize the attached forms for filing a petition under 37 CFR 1.378(c) and making a Statement under 37 CFR 3.73(b). No additional fee is due.

A petition under 37 CFR 1.378(c) should be filed within **ONE (1) MONTH or THIRTY (30) DAYS**, whichever is longer, of the mailing of this letter in order to be considered timely.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at 571-272-3211.

C. T. Donnell

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Encl: PTO/SB/66
PTO/SB/96